

GUIDELINE G-1
(formerly 13-01)

Role of the Ministry in Spills and Emergencies

Legislative Authority:

Environmental Protection Act, RSO 1990, Part X
Emergency Plans Act

Responsible Director:

Assistant Deputy Minister, Regional Operations Division

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SYNOPSIS

The primary purpose of this guideline is to describe the role and responsibilities of the Ministry during spills and emergencies.

Generally, the Ministry is the lead regulatory agency for spills occurring in the Province. Exceptions to this include ship-source and international boundary water spills, for which the Canadian Coast Guard assumes the lead, and spills at federally regulated facilities, for which Environment Canada assumes the lead. Police, fire or health officials normally provide the lead for incidents involving threats to human health, safety, life and property. The Ministry is responsible for providing support during these types of emergencies.

1.0 Definitions

Spiller:

- (a) for purposes of spill reporting responsibilities, the spiller is defined as "every person who has control of a pollutant that is spilled and every person who spills or causes or permits a spill of a pollutant that causes, or is likely to cause, an adverse effect"; or,
- (b) for purposes of spill clean-up responsibilities, the spiller is defined as "the owner of a pollutant and the person having control of a pollutant that is spilled and that causes or is likely to cause an adverse effect".

Spill:

A discharge of a pollutant into the natural environment from or out of a structure, vehicle or other container which is abnormal in quality or quantity in light of all the circumstances of the discharge. If a spill causes, or is likely to cause, any of the following adverse effects, it must be reported and cleaned up:

- (a) impairment of the quality of the natural environment for any use that can be made of it;
- (b) injury or damage to property or to plant or animal life;
- (c) harm or material discomfort to any person;
- (d) adverse effects on the health of any person;
- (e) impairment of the safety of any person;
- (f) the rendering of any property or plant or animal life unfit for use by humans;

- (g) the loss of enjoyment of normal use of property; or,
- (h) interference with the normal conduct of business.

Minor Spill:

A spill of such magnitude and nature that it does not cause significant adverse effects or public concerns, where the spiller can, utilizing his/her own resources, undertake the necessary measures to control, contain and clean up the material spilled

Moderate Spill:

A spill of such magnitude and nature that it causes significant adverse effects in the immediate vicinity of the spill, where the resources under a municipal or co-operative contingency plan may be required to effectively contain and clean up the material spilled

Major Spill:

A spill of such magnitude and nature that it presents a hazard to human health or causes serious adverse effects over a wide area, and for which the Ministry may be required to assume control of the clean-up and restoration activities

Emergency:

Defined by the *Emergency Plans Act* as: "A situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a danger of major proportions to life or property"

2.0 Spills

2.1 Role of the Ministry

The role of the Ministry is to assess the environmental impact of spills and, as a regulatory agency, enforce the duties and provisions imposed by any applicable legislation administered by the Ministry.

2.2 Responsibilities

- (a) The Ministry shall receive notification and information with respect to spills of pollutants to the natural environment and take measures to ensure that spills are responded to promptly and effectively.
- (b) The Ministry shall support and advise other agencies that take charge of spills under their jurisdiction (e.g., the Canadian Coast Guard for ship-source spills and Environment

Canada for spills on federally regulated facilities).

2.3 Scope of Ministry's Actions During Spills

The Ministry, without jeopardizing staff safety, shall:

- (a) determine the nature and extent of environmental damage caused by the spill;
- (b) where applicable, consult with health and safety or labour agencies;
- (c) recommend appropriate response procedures, as required;
- (d) evaluate the adequacy of the containment, clean-up and disposal efforts;
- (e) enforce the duties imposed on the discharger and others;
- (f) when necessary, facilitate or initiate prompt containment, clean-up and disposal measures, in accordance with Procedure G-1-1: "Spill Cleanup Options";
- (g) make recommendations with respect to procedures or equipment for spill prevention, where applicable; and,
- (h) document all findings, actions and recommendations.

2.4 Spill Responsibilities

The following section outlines the ways in which various parties exercise their responsibilities during minor, moderate and major spills. It also clarifies the Ministry's role during these three categories of spills.

2.4.1 Minor Spill

- (a) The spiller shall take immediate measures to control and contain the spill.
- (b) The spiller shall notify the Ministry and the municipality and, in some situations, the owner and person in control, if they are not already aware.
- (c) The spiller shall clean up the spilled pollutant and restore the natural environment using his/her own resources or those of a contractor.
- (d) Public agencies (municipal, Provincial or Federal, depending on the circumstances) shall maintain surveillance where necessary and provide advice to the spiller or the spiller's forces.
- (e) The Ministry shall provide advice and direction while enforcing the duties and

responsibilities imposed by Ministry legislation. The need for on-site Ministry inspection/surveillance is assessed on a case-by-case basis.

2.4.2 Moderate Spill

- (a) The spiller shall take immediate measures to control and contain the spill.
- (b) The spiller shall notify the Ministry and the municipality, and in some situations, the owner and person in control, if they are not already aware. The spiller may contact an industry co-operative for assistance, if needed.
- (c) The municipality or industry co-operative agency shall perform appropriate contingency action, as required. Contractor services shall be obtained, as needed.
- (d) Public agencies shall maintain surveillance, where necessary, and provide advice to those in control.
- (e) The Ministry shall provide advice and direction while enforcing duties and responsibilities imposed by Ministry legislation. The need for prompt on-site Ministry inspection/ surveillance is assessed on a case-by-case basis.

2.4.3 Major Spill

- (a) The spiller shall take immediate measures to control, curtail/contain and clean up spilled material.
- (b) The spiller shall notify the Ministry and the municipality, and in some situations the owner and person in control, if they are not already aware.
- (c) The Ministry, in consultation with other agencies, shall assume control of containment, clean-up and disposal as required. Prompt Ministry on-site inspection is essential.
- (d) Minister's Directions or Orders under Section 94 or Section 97, respectively, of the *Environmental Protection Act*, respectively, shall be issued, as required, for cost recovery, right of entry and limiting liability purposes. The Ministry shall invoke the "Province of Ontario Contingency Plan for Spills of Oil and Other Hazardous Materials", as appropriate, to obtain additional assistance from Provincial and Federal agencies; or the Ministry shall contract the resources of the private sector.
- (e) The Ministry shall enforce duties and responsibilities imposed by Ministry legislation.
- (f) Public agencies shall provide advice, assistance and necessary services, as required.

2.4.4 Further Details

Further details on spill responsibilities are available from Procedure G-1-2: "Planning for Spill Contingencies" (A Supplement to the Province of Ontario Contingency Plan for Spills of Oil and Other Hazardous Materials).

2.5 Province of Ontario Contingency Plan for Spills of Oil and Other Hazardous Materials

The Plan was developed pursuant to Order-in-Council 1487/75 and provides a framework for co-ordinating and utilizing available government resources to deal with the containment, clean-up and disposal phases of spills or spill-related emergencies. The Plan is subordinate to plans which address the protection of life or property and augments the Federal Marine Plans and Joint Canada/U. S. Marine Emergency Plan.

The Plan may take effect when:

- (a) the responsible party(ies) defaults on his/her duty to respond, and the spill is of such magnitude that it must be dealt with by the Province;
- (b) the source of a spill cannot be readily established and a timely response is essential; or,
- (c) upon request for assistance from the discharger or a municipality.

A Regional Director of the Ministry has the authority to invoke the Plan.

3.0 Emergencies

3.1 Role of the Ministry

The role of the Ministry is to assist the agency (e.g., police, medical, health or fire authorities) in control of an emergency involving a discharge or potential discharge to the environment.

3.2 Responsibilities

- (a) Responsibilities for taking control of an emergency are set out in the *Emergency Plans Act* and Order-in-Council 1577/93.
- (b) The Ministry will support and advise other agencies in the control of an emergency.

3.3 Scope of Ministry's Actions During Emergencies

For the environmental or spill-related component of an emergency, the Ministry shall, without jeopardizing staff safety, in consultation with the agency in control of an emergency:

- (a) determine the nature and extent of environmental contamination or damage which may be caused by the emergency by providing modelling and monitoring services, in accordance with the Ministry's capability and expertise;
- (b) provide information and advice requested by a Medical Officer of Health, in accordance with the Ministry's capability and expertise;
- (c) recommend appropriate procedures to the agency in charge of the emergency, when necessary;
- (d) evaluate the adequacy of clean-up and disposal efforts;
- (e) enforce the duties imposed on any persons responsible; and,
- (f) document all findings, actions and recommendations.

3.4 Provincial Emergencies

In exceptional circumstances, the Province may assume control of an emergency. The Premier may declare a Provincial Emergency and designate a Minister of the Crown as the Lead Minister pursuant to the *Emergency Plans Act*. The Minister of Environment and Energy may be so designated for spill-related emergencies. During these types of emergencies, the scope of Ministry action may go beyond that listed in Section 3.3.

4.0 Ministry Administration for Spills and Emergencies

4.1 Reporting

The Ministry's Spills Action Centre (SAC) provides a province-wide, toll-free service for the reporting of spills and other urgent environmental matters on a 24-hour basis (see Guideline G-2 for details on SAC responsibilities).

Ministry staff who receive reports of spills and emergencies are required to relay details to the SAC promptly.

4.2 Ministry Field Response Levels

The Ministry has established the following three levels of field response for spills and emergencies.

LEVEL 1 (District Response)

Level 1, or district level response, is provided by district abatement staff during business hours and by staff designated as Environmental/Emergency Response Personnel (ERP) during off-hours. Their responsibility for spills, or during emergencies with a spill component, is to provide or to

facilitate the functions listed in Sections 2.3 and 3.3 of this guideline and to trigger the next level of response, when necessary.

During Level 1 responses, district staff may receive advice or assistance from other parts of the Ministry, such as the Environmental Monitoring and Reporting Branch, the Legal Services Branch and the and the Communications Branch.

LEVEL 2 (Regional Response)

Level 2 response is provided through expertise and resources available at the Ministry Regional level. This may include:

- (a) providing back-up staff and equipment for complex or prolonged incidents, in order to fulfil the functions listed in Sections 2.3 and 3.3 of this guideline;
- (b) providing air or water modelling or monitoring, in accordance with the specific Region's capability;
- (c) providing support, guidance and approval to initiate Section 94 directions, Section 96 approvals or Section 97 orders (*EP Act*);
- (d) triggering the next level of response.

During a Level 2 response, regional staff may receive advice or assistance from other parts of the Ministry, such as the Environmental Monitoring and Reporting Branch, the Legal Services Branch and the Public Affairs and Communications Branch.

LEVEL 3 (Ministry Response)

Level 3 response utilizes additional on-site Ministry expertise and resources beyond those available at the Regional level. This may include on-site assistance from other Branches, such as the Environmental Monitoring and Reporting Branch and the Public Affairs and Communications Branch.

This level of response is normally limited to prolonged incidents which require specialized monitoring, modelling or analytical capabilities and associated resources, or to serious incidents which attract considerable public concern.